

## Department of Energy

## § 710.33

by the Deputy Chief for Operations, Office of Health, Safety and Security. The Secretary's authority may not be delegated and may be exercised only when the Secretary determines that the circumstances described in § 710.26(l) or (o), or § 710.29(i) are present, and such determination shall be final.

(b) Whenever the Secretary issues a final decision as to the individual's DOE access authorization eligibility, the individual and other concerned parties will be notified in writing, by the Deputy Chief for Operations, Office of Health, Safety and Security, of that decision and of the Secretary's findings with respect to each of the allegations contained in the notification letter and each substantial issue identified in the statement in support of the request for review to the extent allowed by the national security.

(c) Nothing contained in these procedures shall be deemed to limit or affect the responsibility and powers of the Secretary to issue subpoenas or to deny or revoke access to Restricted Data, national security information, or special nuclear material.

(d) Only the Secretary may approve initial and subsequent requests under § 710.29(h) by the Deputy Chief for Operations, Office of Health, Safety and Security, to defer the review of an individual's case by the Appeal Panel.

[66 FR 47066, Sept. 11, 2001, as amended at 71 FR 68731, Nov. 28, 2006]

### § 710.32 Reconsideration of access eligibility.

(a) If, pursuant to the procedures set forth in §§ 710.20 through 710.31 the Manager, Hearing Officer, Appeal Panel, or the Secretary has made a decision granting or reinstating access authorization for an individual, the individual's access authorization eligibility shall be reconsidered as a new administrative review under the procedures set forth in this subpart when previously unconsidered derogatory information is identified, or the individual violates a commitment or promise upon which the DOE previously relied to favorably resolve an issue of access authorization eligibility.

(b) If, pursuant to the procedures set forth in §§ 710.20 through 710.31 the

Manager, Hearing Officer, Appeal Panel, or the Secretary has made a decision denying or revoking access authorization for the individual, the individual's access authorization eligibility may be reconsidered only when the individual so requests, when there is a bona fide offer of employment requiring access to Restricted Data, national security information, or special nuclear material, and when there is either:

(1) Material and relevant new evidence which the individual and the individual's representatives are without fault in failing to present earlier, or

(2) Convincing evidence of rehabilitation or reformation.

(c) A request for reconsideration shall be submitted in writing to the Deputy Chief for Operations, Office of Health, Safety and Security, accompanied by an affidavit setting forth in detail the new evidence or evidence of rehabilitation or reformation. If the Deputy Chief for Operations, determines that the regulatory requirements for reconsideration have been met, the Director shall notify the individual that the individual's access authorization shall be reconsidered in accordance with established procedures for determining eligibility for access authorizations.

(d) If the individual's access authorization is not reinstated following reconsideration, the individual shall be advised by the Director, Office of Personnel Security, DOE Headquarters, in writing:

(1) Of the unfavorable action and the reason(s) therefor; and

(2) That within 30 calendar days from the date of receipt of the notification, he may file, through the Director, Office of Personnel Security, DOE Headquarters, DOE Headquarters, a written request for a review of the decision by the Appeal Panel, in accordance with § 710.29.

[66 FR 47066, Sept. 11, 2001, as amended at 71 FR 68731, Nov. 28, 2006]

## MISCELLANEOUS

### § 710.33 Terminations.

If the individual is no longer an applicant for access authorization or no longer requires access authorization,